

REMARKS

This Amendment is submitted in response to the Official Letter dated June 15, 2005. Claims 1, 8, 12, 15 and 16 have been amended. Claims 19 through 22 have been cancelled. The application now includes claims 1 through 18, with claims 1, 12, 15 and 16 being independent claims. Favorable reconsideration of the application, as amended, is respectfully requested.

In the Official Letter, the Examiner objected to the drawings under 37 C.F.R. §1.83(a) for failing to show "74" as described in the specification. Accordingly, applicants have enclosed a replacement drawing sheet that includes Figs. 5 and 6 with the numerical identifier "74" added to Fig. 6. The Examiner also objected to the drawings under 37 C.F.R. §1.83(p)(4) because the reference character "74" was used to designate both a block and a resilient material on page 10 of the specification. Accordingly, applicants have amended paragraph no. [036] to correct the double designation. Additionally, applicants have enclosed another replacement drawing sheet that includes Figs. 3A and 4. Applicants have added an arrow pointing from the numerical identifier "40" that was inadvertently omitted from Fig. 3A to the replacement drawing sheet. Based upon the above described corrections, applicants respectfully request that the Examiner withdraw his objections to the drawings.

In the Official Letter, the Examiner also rejected claims 1 through 11 under 35 U.S.C. §102(b) as being anticipated by JP403132464. The Examiner stated that the Japanese reference disclosed all of the limitations recited in the claims.

Applicants have amended independent claim 1 to recite a one piece outer supporting structure. The Japanese reference teaches multiple outer supporting structures 4 and 8 as illustrated in Figs. 2 and 4, respectively. With regard to the outer supporting structure 13 illustrated in Fig. 6, only a fragmentary view is included in the document and it is not clear that the supporting structure 13 is comprised of a single piece. Therefore, applicants believe that nothing in the Japanese reference shows or suggests a one piece supporting structure as recited in amended independent claim 1. Indeed, by disclosing multiple supporting structures, applicants believe that the Japanese reference actually teaches away from the structure recited in amended claim

1. Accordingly, applicants believe that amended independent claim 1 is not anticipated by the Japanese reference and respectfully request that the Examiner withdraw his rejection of the claim.

With regard to claims 2 through 11, the claims are dependent upon amended independent claim 1 and include the limitations recited therein. Accordingly, for the reasons given above, applicants believe that claims 2 through 11 are not anticipated by the Japanese reference and respectfully request that the Examiner withdraw his rejection of the claims.

In the Official Letter, the Examiner further rejected claims 12 through 15 under 35 U.S.C. §103(a) as being unpatentable over the Japanese reference in view of U.S. Patent No. 4,258,642 to Brumeister. The Examiner stated that the Japanese reference teaches all of the limitations of the claims except for the resilient material being received within a corresponding bore formed in the electro-hydraulic control unit. The Examiner further stated that the Brumeister reference teaches a resilient material (80) that is received within a corresponding bore (72) formed in a control unit, as illustrated by Fig. 4 of the reference. The Examiner then concluded that it would be obvious for one of ordinary skill in the art at the time of the invention to modify the mounting device of the Japanese reference by adding the feature of the Brumeister reference so as to dampen vibration.

Applicants have rewritten claim 12 in independent form to include all of the limitations to the original base claim 1. Additionally, applicants have amended claim 12 to recite a plug of resilient material disposed upon and attached to said outer structure with the resilient material covering an end of the outer supporting structure that is opposite from the end that is adapted to be attached to a vehicle. Amended claim 12 further recites that the resilient material is adapted to be received within a corresponding bore formed in the control unit with the plug interposed between the outer supporting structure and the bore to prevent any direct contact therebetween whereby the resilient material absorbs noise and vibrations. The structure recited in amended claim 12 is illustrated in Fig. 6 of the application and, therefore, amended claim 12 does not add any new matter.

Based upon a careful review of the Brumeister reference applicants believe that the reference discloses a connection between upper and lower shift control rods 54 and 66, respectively. As stated in column 4, lines 1 through 13:

As illustrated in Fig. 3, when the ends of the upper and lower shift control rod portions 64 and 66 are joined, and as the coupling 86 is threaded into the bore 72 in the lower shift control rod, the tapered surface portion 92 of the central bore 90 engages the complementary tapered surface of the resilient keeper 80, forcing the keeper 80 against the shoulder 94 of the annular groove 78 and thereby forcing the end 96 of the upper shift rod 64 against the end wall 74 of the bore 72 in the lower shift rod 66 *whereby the upper and lower shift rods 64 and 66 can be fixedly held together in end-to-end abutting relation*, precluding end play of the shift rod portions. (Emphasis added)

Based upon the above, applicants believe that the Brumeister reference discloses an end-to-end contact between two shift rods which is a complete opposite from the structure recited in amended claim 12 where a resilient plug is interposed between an outer supporting structure and a bore to prevent any direct contact therebetween. As clearly shown in Fig. 3 of the Brumeister reference, the keeper 80 does not even extend to the lower end of the upper control rod 64. Indeed, because the Brumeister reference discloses a metal-to-metal contact between the control rods, applicants also believe that the reference actually teaches away from the structure recited in amended claim 12. Therefore, combining the teachings of the Brumeister and Japanese references will not provide the structure recited in amended claim 12. Accordingly, applicants believe that amended claim 12 is patentable over the art of record and respectfully request that the Examiner withdraw his rejection of the claim.

Regarding claims 13 and 14, the claims are dependent upon amended independent claim 12 and include the limitations recited therein. Accordingly, for the reasons given above, applicants also believe that claims 13 and 14 are patentable over the art of record and respectfully request that the Examiner withdraw his rejection of the claims.

Applicants also have rewritten claim 15 in independent form to include all of the limitations to the original base claim 1. Additionally, applicants have amended claim 15 to recite a layer of resilient material disposed between an end of an outer supporting structure and an inner structure. Amended claim 15 also recites that the layer of resilient material forms an insulative barrier between the outer supporting structure and the inner structure to prevent any direct contact therebetween whereby the resilient material absorbs noise and vibrations. The structure recited in amended claim 15 is illustrated in Fig. 5 of the application and, therefore, amended claim 12 does not add any new matter.

As described above, applicants believe that the Brumeister reference discloses an end-to-end contact between two shift rods which is a complete opposite from the structure recited in amended claim 15 where a layer of resilient material is disposed between an outer supporting structure and an inner structure to prevent any direct contact therebetween. Accordingly, for the reasons given above, applicants believe that amended claim 15 is patentable over the art of record and respectfully request that the Examiner withdraw his rejection of the claim.

In the Official Letter, the Examiner further rejected claims 16 through 18 under 35 U.S.C. §103(a) as being unpatentable over the Japanese reference in view of U.S. Patent No. 5,628,499 to Ikeda et al. The Examiner stated that the Japanese reference discloses all of the limitations of the claims except for a layer of resilient material disposed within and attached to an outer structure. The Examiner further stated that the Ikeda et al. reference discloses, in Fig. 1, a layer of resilient material (7) disposed within and attached to an outer structure (3). The Examiner then concluded that it would have been obvious for one of ordinary skill in the art at the time of the invention to modify the layer of resilient material of the Japanese reference by adding the feature of the Ikeda et al. reference so as to dampen vibration.

Applicant has amended independent claim 16 to recite a layer of resilient material disposed within and attached to an outer structure with the layer of resilient material forming an insulative barrier that separates the outer supporting structure from an electronic control unit to prevent any direct contact therebetween whereby the

resilient material absorbs noise and vibrations. An examination of Fig. 1 of the Ikeda et al. reference reveals that, while a diaphragm 7 of resilient material is clamped between a base member 3 and partition member 5, the diaphragm 7 does not separate the base member 3 from the partition member 5, as recited in amended claim 16. Indeed, an outer edge of the base member 3 is in direct contact with a corresponding outer edge of the partition member 5, allowing direct transmission of noise and vibration between the members 3 and 5. Therefore, the structure disclosed in the Ikeda et al. reference actually teaches away from the structure recited in amended claim 16. Accordingly, applicants believe that amended claim 16 is patentable over the art of record and respectfully request that the Examiner withdraw his rejection of the claim.

Regarding claims 17 and 18, the claims are dependent upon amended independent claim 16 and include the limitations recited therein. Accordingly, for the reasons given above, applicants also believe that claims 17 and 18 are patentable over the art of record and respectfully request that the Examiner withdraw his rejection of the claims.

Finally, in the Official Letter, the Examiner rejected claims 19 through 22 under 35 U.S.C. §103(a) as being unpatentable over the Japanese reference. However, applicants have cancelled claims 19 through 22.

In view of the amendments and above remarks, it is believed that the application is in condition for allowance.